

**Notice of Allowability**

Application No.

09/985,783

Examiner

Peter Vincent Agustin

Applicant(s)

KASE, TOSHIYUKI

Art Unit

2652

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment dated 11/10/2004.
2. ☒ The allowed claim(s) is/are 1-6.
3. ☒ The drawings filed on 20 July 2004 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## **DETAILED ACTION**

### ***Examiner's Amendment***

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

Claims 5 & 6: line 1, "(withdrawn)" has been changed to --(original)--.

Claim 5, line 2: "judging" has been changed to --judgment-result outputting--.

Claim 5, line 7: "judging" has been changed to --judgment-result outputting--.

Claim 6, line 2: "judging" has been changed to --judgment-result outputting--.

### ***Election/Restrictions***

2. Claim 1 is generic and allowable. Accordingly, the restriction requirement as to the encompassed species is hereby withdrawn and claims 5 & 6, directed to the species of figures 1-5 & 9-11 are no longer withdrawn from consideration since all of the claims to this species depend from or otherwise include each of the limitations of an allowed generic claim.

In view of the above noted withdrawal of the restriction requirement as to the linked species, applicant(s) are advised that if any claim(s) depending from or including all the limitations of the allowable generic linking claim(s) be presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

### ***Priority***

3. An English-language translation of the priority document has been received; therefore, the rejections of claims 1-4 under 35 U.S.C. 102(e) as being anticipated by Kitamura et al. (US 2002/0041554) have been withdrawn.

*Allowable Subject Matter*

4. Claims 1-6 are allowed over the prior art of record.
5. The following is an examiner's statement of reasons for allowance:

The prior art of record fails to teach or suggest as a whole:

In claim 1, an information recording and reproducing system comprising: a host device; and an information recording and reproducing device connected with said host device via a host interface, the information recording and reproducing device including a data-recording interrupting-resuming unit that performs a recording of data transferred from said host device via said host interface on a recording medium at a predetermined data-writing velocity and, in a case of having interrupted said recording, resumes said recording by linking an end point of said data upon the interruption with a start point of said data upon the resumption so as to maintain a continuity of said data, wherein said host device includes a control-command issuing unit issuing a control command to said information recording and reproducing device, the control command causing said data-recording interrupting-resuming unit either to perform the interruption and resumption of the recording or not to perform the interruption and resumption of the recording, said host device further comprising a test-writing unit causing said information recording and reproducing device to perform a test-writing to said recording medium at a predetermined writing velocity; **an interruption-probability judgment unit making a judgment on whether or not there is a probability of the interruption during a recording of data to said recording medium, according to a result of said test-writing; and said information recording and reproducing device includes a data-recording interruption-resumption control unit controlling said data-recording interrupting-resuming unit either to perform the**

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**interruption and resumption of the recording or not to perform the interruption and resumption of the recording, according to said control command received from said host device via said host interface.**

Claims 2-6 are dependent upon base claim 1.

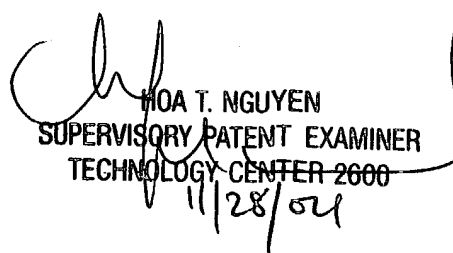
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Vincent Agustin whose telephone number is 703-305-8980. The examiner can normally be reached on Monday-Friday 9:30-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Thi Nguyen can be reached on 703-305-9687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Peter Vincent Agustin  
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HOA T. NGUYEN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600  
11/28/04